IN THE MATTER OF AN ARBITRATION

UNDER THE RULES OF ARBITRATION OF THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES

ICSID CASE No. ARB/14/22

BETWEEN:

(1) BSG RESOURCES LIMITED

(2) BSG RESOURCES (GUINEA) LIMITED

(3) BSG RESOURCES (GUINEA) SÀRL

Claimants

- v -

THE REPUBLIC OF GUINEA

Respondent

First Witness Statement

MAHMOUD THIAM

I MAHMOUD THIAM of 170 East End Avenue, Apt 16B, New York, NY 10128, USA, with date of birth 4 October 1966, will state as follows:

1. I am the Chief Executive of Thiam & Co, an advisory and investment management consultancy based in New York, which specialises in frontier and emerging markets, with a particular emphasis on Africa and the Middle East. Prior to setting up Thiam & Co, I served as Minister of Mines, Geology, Energy and Hydraulics in the Republic of Guinea (“Guinea”) in 2009 and Minister of Mines and Geology in 2010. I will refer to both positions as “Minister of Mines”.

2. I make this statement in relation to the claim by BSG Resources Limited (“BSGR”), BSG Resources (Guinea) Limited (“BSGR Guernsey”) and BSG Resources (Guinea) Sàrl (“BSGR Guinea) against the Republic of Guinea (“Guinea”). Save where I indicate otherwise, the
facts and matters set out in this statement are based on my first-hand knowledge of the events in question.

3. This witness statement has been prepared with the assistance of my counsel, Sullivan & Worcester LLP, and the Claimants' lawyers, Mishcon de Reya LLP. On some occasions, I have refreshed my memory by looking at correspondence and other documents from the relevant time where they have been available to me. I have been unable to review other documents which are relevant but which are in the Respondent's archives from the period when I was Minister of Mines. Official letters I refer to in the body of this statement have been shown to me by Mishcon de Reya or are in the public domain.

4. I understand that the Respondent has revoked the Claimants' mining and exploration rights in Guinea on the basis of accusations that it acquired those rights and a mining agreement by way of corruption. I was Minister of Mines when BSGR was granted its mining agreement (the "Base Convention") in 2009. As I explain in detail below, the Base Convention was negotiated and awarded in an entirely legal manner. I also explain the normal process for acquiring exploration and mining rights in Guinea, the investigation I undertook as Minister of Mines into the removal of mining rights from Rio Tinto and their subsequent award to BSGR, the falsity of the Technical Committee's allegations and finally how Alpha Condé set out to undermine my achievements as Minister of Mines in order to legitimise his pre-determined expropriation of BSGR's assets.

5. On 2 December 2012, I discussed with Mr Samuel Mebiame my role as Minister of Mines and Alpha Condé's illegitimate actions and intentions. Mr Mebiame is a businessman of influence in South Africa and my discussion with him was recorded. I confirm that this conversation did occur and that the audio tapes are faithful to what was said. I also believe that the transcript at Exhibit C-0131 is a generally (though not entirely) accurate representation of the contents of the audio recording. I will refer to this conversation as the "Mebiame Tapes" and I discuss in further detail at paragraphs 126 to 127 the circumstances which led to the conversation taking place.

6. The structure of this witness statement is as follows:

A: Background
B: Nomination as Minister of Mines
C: Investigation into the withdrawal of rights from Rio Tinto and award to BSGR
D: How BSGR obtained is Base Convention for Zogota
E: The requirement for external funding
F: BSGR's joint venture negotiations
A. BACKGROUND

7. I was born in Guinea in October 1966. In 1971, when I was aged 5, my father was arrested along with the majority of his family and friends, under the dictatorial rule of the first President of Guinea, Ahmed Sékou Touré. For my safety, my mother arranged for me to be smuggled out of the country and taken to live with my uncle, a diplomat for the OAU at the time, then various UN agencies and NGOs. My mother remained in Guinea, in the hope that my father was still alive. However, after the death of President Sekou Touré in 1984, we learnt that my father and most of his companions had been tortured and executed immediately following their arrest in 1971.

8. During my years in exile, I maintained a distant relationship with Guinea, with information and letters occasionally smuggled to me. I did not return to Guinea until 1984, following the death of President Touré and thereafter tried to visit every year. In 1984, Lansana Conté became the second President of Guinea. It is worth noting that President Alpha Condé relied heavily on supporters and family members of Sekou Touré to feed the ethnic tensions in Guinea that allowed him to seize power in 2010. Many of his advisors and Ministers served under Sekou Touré and some of the current methods of policing and governing are very reminiscent of those dark days.

9. I attended Cornell University in New York and studied applied economics and finance. After a brief entrepreneurial career, in 1994 I was offered a job at Merrill Lynch ("Merrill") and commenced my career in banking. I rose quickly at Merrill and I was able to build up my own banking team which became largely autonomous. Due to the success of my team in areas beyond the division that had hired me, Merrill afforded us great flexibility in relation to geography and industries we worked in. This in turn allowed the team to react quickly to shifts in the global economy, by concentrating on different industries according to the global landscape. For instance, after the Russian debt crisis in 1998, the team moved from concentrating on debt restructuring to commodity-backed finance and advisory work.
10. In the late 1990s, my team started to focus more on Africa, including advising Chinese and Indian groups seeking mining investment in Africa. We developed a speciality and became known for our expertise in this area. As a result, we were called upon to advise governments and multi-national companies in relation to investing in mining, oil and gas in Africa.

11. During my time at Merrill, I was involved in winning two mandates from the Government of Guinea ("GoG"). The first was in 1997, when my team was mandated by the Central Bank to advise on hedging its gold reserves. The second was in 1997 to 1998, when we advised the Ministry of Mines on structuring the financing of a hydropower-dam/aluminium smelter complex. As a result of these mandates, I established professional relationships within Guinea, particularly in the Mining and Finance sectors. In the years that followed, I stayed in contact with some of the people I had formed relationships with and remained interested in developments in the country.

12. In 2004, I was courted by UBS and a number of global banks to move my team from Merrill. After some competition, I accepted UBS’s proposal, on the condition that my team could function in the same way and with the same autonomy that we had been allowed at Merrill. The negotiations for the transfer commenced in April 2004 and my team and I joined UBS in August 2004.

B. NOMINATION AS MINISTER OF MINES

13. Following the death of President Lansana Conté in 2008, the military took over the running of the country. The leader of the military, Captain Moussa Dadis Camara, became President of the newly formed CNDD government and appointed a civilian, Kabine Komara, as Prime Minister. Prime Minister Komara was then asked to form a government of civilian technocrats (the "Technocrat Government"). The Technocrat Government announced it would remain in power for two years, after which it would preside over the first democratic elections in Guinea. Its stated mission was to clean up the drugs trade, clean up corruption, organise elections and restructure the mining industry to ensure mines were put into production and would benefit the Guinean people going forward. As a result, I believe that the Technocrat Government was originally welcomed by a large proportion of the Guinean people.

14. Prime Minister Komara is a former Guinean government official and banker, who previously worked at the African Export-Import Bank in Cairo. We had friends in common and I knew him distantly from my two mandates in Guinea. Given this connection, Prime Minister

1 BBC News, “Guinea Profile, Timeline” (Exhibit C-0133).
2 BBC News, "Guinea junta names banker as PM" dated 30 December 2008 (Exhibit C-0134).
Komara knew about my reputation as a Guinean banker in the mining sector and approached me in late 2008 initially to offer me and my team at UBS an advisory mandate to help clean up and restructure Guinea’s mining industry. I agreed to this request on the condition that he appointed a Minister of Mines who understood and had experience in mining. This was because, from experience working with other governments and ministries of mines, I knew that if the decision-maker does not fully understand how the industry and the capital markets work, an advisory mandate could be wasted in asking for but not receiving crucial information from the Minister. Prime Minister Komara agreed and asked me to propose candidates for the role of Minister of Mines. I did not know anyone in Guinea who fit the role, so I asked my contacts in the industry for recommendations and submitted three names. Prime Minister Komara told me that he in turn reported to his military bosses that I had agreed to have UBS advise the Guinean mining ministry and that he proposed the three names I had recommended for Minister of Mines. However, according to Prime Minister Komara, the military accepted his proposal only on condition that I be appointed Minister of Mines.

15. Prime Minister Komara telephoned me immediately after and asked me to become Minister of Mines instead of an advisor. I initially rejected the offer, as I had young children in school in New York and I had responsibilities both to my team at UBS who I had moved from Merrill and to my clients who I did not want to abandon in the middle of the financial crisis. At that time I had also not visited Guinea in seven years. Prime Minister Komara then began to importune me to accept the role and began calling people close to me to try to encourage me to take up the position.

16. After some insistence from various corners, I finally made arrangements with my family, my team, my clients and UBS and then I accepted the nomination out of a sense of duty to help my homeland. The incentive was not monetary. The arguments that weighed most heavily were those of family and friends whose fathers had been wrongly accused, tortured and killed in Guinea and had, like me, lived in exile all their lives. In addition, I was persuaded by the fact that for the first time since I was five, I had a chance to live in the same city as my mother and get to know her before it was too late; and finally the fact that my wife, herself, felt it was important I serve my country. I was appointed Minister of Mines in January 2009 and arrived in Guinea soon after I was appointed. I made arrangements to be able to support myself and my family while in Guinea. I met my various business partners and made sure that my share of proceeds from our various ventures would go to support my family. Salary was always a small fraction of my revenues as a banker. The bulk was
commissions and bonuses and revenue from some on-going business ventures outside of the bank.

17. Although Guinea sits on billions of dollars' worth of iron, bauxite, gold, diamonds, oil and other prized minerals, the country had failed to capitalise on its vast resources because of poor government policies and decisions, corruption and inadequate infrastructure. I returned to Guinea with the aim of overhauling the mining sector and breaking this so-called resource curse.

C. INVESTIGATION INTO THE WITHDRAWAL OF RIGHTS FROM RIO TINTO AND AWARD TO BSGR

18. Almost immediately after I was sworn in and took office, I was telephoned by Prime Minister Komara and asked to receive a delegation from the mining company Rio Tinto. Given my interest in the mining sector, I already knew that Rio Tinto (through its subsidiary Simfer S.A.) had previously held mining rights in respect of Simandou blocks 1, 2, 3 and 4, but that the previous government had withdrawn the permit for blocks 1 and 2. BSGR was subsequently awarded a prospection permit over these blocks.

19. I met with representatives from Rio Tinto, including the local managing director, his CFO, and the head of public relations. They were accompanied by 5 or 6 Guinean officials including a few ministers and members of the ruling military committee that was in power. They made a very vigorous argument that we should overturn the previous government's withdrawal decision, and made multiple allegations against BSGR. These included that BSGR was a corrupt organisation involved in arms trading, that Beny Steinmetz's French passport had been revoked on account of his connection to corruption, that no major US bank was prepared to do business with BSGR Guinea and that the company had no experience in the mining sector.3 I responded that I would ask my Ministry to prepare a report into the withdrawal decision and the allegations against BSGR and Mr Steinmetz and I would respond once the analysis had been completed. The delegation accepted my proposed course of action and left.

20. Later that day, I visited the military compound in order to inform the President that I was about to travel out of Guinea for a few days. On my arrival, I found the President surrounded by the same group of people from Rio Tinto and their government and military affiliates who had just left my office hours earlier. The President informed me that the delegation was requesting an immediate reversal of the withdrawal decision. The President further informed

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3 Transcript of Meeting between Minister of Mines Mahmoud Thiam and Sammy Mebiame (the Mebiame Tapes) p.26 (Exhibit C-0135).
me that if the decision on blocks 1 and 2 was reversed, Rio Tinto had committed to him to invest immediately the sums required to resolve all the water and power shortages in Guinea. That would be an investment worth several billion dollars.

21. Not only was I surprised that Rio Tinto was attempting to bypass me and was not content with waiting for the outcome of my investigation into the matter, but it was clear to me that it had made promises to the President that it was unlikely to honour. Rio Tinto was, like every other mining company, suffering from the global crisis. To this day, it has yet to fund the Simandou project. I asked the delegation to confirm their promises to me in front of the President and that the commitment was for an immediate investment, not some time in the distant future. They admitted that they were not in a position to make such a commitment. I told the President that Rio Tinto would not invest the monies now, which was not within our rights to ask of them anyway, and that they had no obligation to do so. I went on to tell the President that Rio Tinto should concentrate on developing a mine, providing the GoG with its fair share of the proceeds and that we could then ourselves afford to build our own infrastructure. I informed the President of my proposal to conduct an investigation into the withdrawal of Rio Tinto’s rights and the allegations raised by Rio Tinto with regard to BSGR and then to make a decision in accordance with the law and the best interests of the country. The President approved this approach and asked the Rio Tinto delegation to leave.

22. My investigation into the matters raised by Rio Tinto was threefold: first: to investigate whether the withdrawal of rights from Rio Tinto was legal according to the Guinean mining code in effect at the time; second: to investigate whether the award to BSGR followed the normal procedure according to the same code; and third: to investigate the direct allegations made by Rio Tinto that BSGR was a corrupt organisation. In order to explain the context of the first two investigations, I set out below the normal process for acquiring mining rights in Guinea and the subsequent obligations of permit holders.

Normal process for obtaining a prospection permit

23. There are two main types of mining licence that can be applied for. The first is a prospection permit (also known as a research or exploration permit), which allows the holder the exclusive right to explore an area for the mining substance(s) for which the permit is issued. The aim of a prospection permit is to allow the holder to explore an area in the hope of discovering a commercially viable deposit. The second type of licence is a mining concession, which is applied for only when commercially viable deposits have been proven in an area and a feasibility study for its development has been submitted to the ministry and

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4 Open letter from Mr Thiam to President Condé dated 26 November 2012, p.3 (Exhibit C-0136).
accepted. A mining concession confers an exclusive right to develop deposits. The procedure for acquiring a mining concession is discussed at paragraphs 29 to 33.

24. During my time as Minister of Mines, the 1995 Mining Code (the "1995 Code") was in force and regulated the application process for both types of permit. Pursuant to Article 28 of the 1995 Code, a prospection permit is issued by order of the Minister of Mines on recommendation from the Centre de Promotion et de Développement Miniers (the "CPDM"). To apply for a prospection permit, a request must be made to the CPDM for permission to explore a specified area for a specified mineral. The CPDM manages the mineral map (known as the “cadastre”) of the country and if an area is available (i.e. a permit has not already been issued in respect of that area), the CPDM will usually recommend that the Minister of Mines issues the permit. Accordingly, permits are usually distributed on a first come, first served basis.

25. The applicant simply needs to show that they have sufficient technical and financial capacity to undertake the exploration. An applicant does not need to show that they have the requisite capability to develop the deposit if a mineral is discovered in the area. This is contrary to the submissions of the Technical Committee Report which I understand at paragraph 126 asserts that the mining law in Guinea requires an applicant to demonstrate it has the financial and technical capacity to "succeed in these mining operations". This demonstrates a misunderstanding of the 1995 Code by the Technical Committee.

26. Pursuant to Articles 29 and 30 of the 1995 Code, prospection permits are issued initially for a maximum term of three years. At the end of the three years, the permit holder has three options:

26.1 If sufficient deposits have been found and the permit holder has been able to complete a feasibility study within the three year period, the holder can commence the process for applying for a mining concession to develop the deposit. This rarely happens because 3 years is generally too short to reach that stage.

26.2 If the permit holder requires more time to ascertain whether there is a marketable deposit or to complete a feasibility study, it may apply to renew the prospection permit. The permit may be renewed twice, for maximum periods of two years after the initial three year period.

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6 Technical Committee’s recommendation concerning the titles and mining agreement held by the company BSGR Guinea dated 21 March 2014 (the “Technical Committee Report”) (Exhibit C-0064), p. 27, para 126, bullet 3.
7 Exhibit CL-0001, p.12.
However, at each renewal the area covered by the permit is reduced by one half. This process is known as retrocession.

26.3 If no deposits of commercially viable quantity or quality are found, the permit holder can abandon the permit. The area will then be open to applications by other companies.

27. Areas available on the cadastre fall under three general categories:

27.1 The first type relates to areas which have not been the subject of previous research or mining (the vast majority of the cadastre belongs to this category). Prospection permits for these previously unexplored areas are given out as freely and easily as possible to encourage development and applications are successful usually with little or no competition.

27.2 The second category relates to areas which have been previously explored and either retroceded or abandoned for failure to discover a viable deposit or lack of adequate funding. This is the second largest category, though much smaller than the first. Here, there is likely to be slightly more competition for the permit. The 1995 Code does not require a bidding process. If more than one applicant applies for a permit at the same time, such that the first come first served principle cannot apply, the permit will be issued to the applicant who offers the best conditions and guarantees to the State. This will be the applicant which demonstrates the best technical and financial capabilities for the purposes of prospection.

27.3 The third category relates to areas which have been retroceded at renewal and the retroceded half is particularly rich in mineral deposits. This applies to a very small percentage of all requests for prospection permits, because, historically, not enough advanced prospection has been done in the country to generate such opportunities in large numbers. In such circumstances, previous Ministers of Mines have, on occasion, applied special provisions for granting a prospection permit to extract more revenue for the country, in return for the benefit to the applicant of the data about the area which has already been generated at someone else’s expense. For instance, in 2008, the mining company BHP Billiton Limited retroceded half of its concession at Boffa-Santou-Houda. The retroceded portion was so rich in bauxite that the GoG chose not to put it back into play as a mere prospection permit. Instead, a strategic agreement was struck with China Power International who agreed to take the asset and commit to building a mine, refinery, port and railway there as well as a large capacity power generation dam, in compensation. This negotiation was authorized by both the Guinean and Chinese governments. The GoG is free to keep any portion of its territory to itself and not tender it under the normal licencing process. Accordingly, the permit which was granted was more akin to a mining concession.
28. With regard to categories 1 and 2, the cost of acquiring prospection permits is minimal, as the successful applicant is required to invest their money to establish whether there is a marketable deposit in that area and it is in the interest of the GoG to encourage such investment. A permit cannot be bought. It is granted and can be withdrawn under certain circumstances or for violations. The fees paid are surface taxes calculated per square kilometre every year plus some community and social taxes. The investor is encouraged to put money in research.

Normal process for obtaining a mining concession

29. Where the holder of a prospection permit discovers a marketable mineral deposit, it can apply for a mining concession to develop that deposit. The first stage is for the applicant to complete a feasibility study and submit it to the Ministry of Mines. This is a very detailed and technical document which must address all geological, technical, metallurgical, environmental, tax and other parameters of the project and demonstrate that it is viable and fundable. If the feasibility study is considered complete and acceptable, the department in charge notifies the Minister and recommends that the applicant be invited to commence negotiations for a mining convention, which will cover the terms of a mining concession. The Minister of Mines then forms a committee comprising 1 to 2 technocrats and/or lawyers each from other ministries within the GoG including the finance, environment, transport, interior and justice departments. The committee then sets about negotiating the terms of the mining convention with the team representing the applicant. This is often a hard and long negotiation. The minutes of the negotiations are recorded.

30. Prior to my appointment as Minister of Mines, this negotiation was often dragged out for months and even years. I was determined that the process would not be delayed and put in place a policy for the negotiations to be completed within eight weeks.

31. During the negotiations there is often as much – if not more – disagreement among government departments, which each have different priorities, as between the committee and the applicant. The final draft convention agreed upon should therefore be a document of consensus.

32. The draft convention that the committee has debated and approved by vote is then presented to the Minister of Mines, who in turn presents it to the Cabinet and advocates for its ratification. The members of the Cabinet review the draft, debate its terms and vote on whether it should be signed. If the vote is positive, the Minister of Finance and the Minister of Mines are instructed to sign the convention. If the vote is negative, the Cabinet can send the draft back to the committee with comments for discussion. The committee will discuss
the Cabinet's comments with the applicant and decide what amendments need to be made before it is re-submitted to the Cabinet.

33. When a convention has been signed, the normal process is for the mining concession it governs to be ratified by Presidential Decree, followed by Parliamentary approval. During my tenure as Minister of Mines, there was no Parliament as there was a CNDD, then a transitional government. Accordingly, the constitution prescribed a different ratification process whereby the concession is granted by Presidential Decree in the usual course and the convention is ratified by the President and the Prime Minister. That is the procedure followed in the case of BSGR.

34. During my time as Minister of Mines, three mining conventions were negotiated and concluded and another two feasibility studies submitted and accepted. These five examples represented more than what was achieved in the previous fifty years.

Investigation into the withdrawal of rights from Rio Tinto

35. The statements I make below are based on information obtained in the course of my enquiry into the dispute between Rio Tinto and BSGR over the withdrawal and attribution of blocks 1 and 2. The chronological and anecdotal recounting I give is derived from the review at that time of (1) official documents from the ministry and the GoG on the matter, (2) the review of correspondence between the GoG and the two mining companies, (3) a review of the decisions and decrees of the GoG, (4) memoranda and legal opinions I requested and obtained from Ministry staff and lawyers, GoG lawyers, and government officials who had been involved in the matter including former ministers, and (5) newspaper articles on the matter.

36. Rio Tinto first obtained a prospection permit in respect of a large area in Simandou in 1997. I understand that at the time, Rio Tinto promised the GoG that it would be in production within five years. I believe this was an unachievable goal: Rio Tinto could not have guaranteed that it would find a marketable deposit in Simandou, or that the GoG would grant it a mining concession in order to develop the mine. In addition, a time frame of five years between exploration and production is very tight, even assuming every step in the geological and development stages is achieved to perfection.

37. Three years later, in 2000, Rio Tinto retroceded half of the area as required, pursuant to Articles 29 and 30 of the 1995 Code in order to extend the permit for 2 years. However, the retrocession was said, by my technical staff at the ministry, to have been in breach of the 1995 Code. Article 30 of the 1995 Code provides that a permit may only be renewed on the
same conditions as before, which includes the condition in Article 27 that a prospection permit should designate a "surface whose shape is as close to a rectangle as possible, with the sides aligned true north-south and east-west".\footnote{Ibid.} Instead of retroceding half of its asset in a shape as close to a rectangle, Rio Tinto carved out strips, which has been described as a "Swiss cheese retrocession", due to the holes of available permit area the retrocession created. A retrocession of this type defeated the spirit of the law that sought to allow the government to benefit from the miner’s research by redeploying better known areas which were sufficiently large and accessible to be of interest to other companies. Following the 2000 retrocession, Rio Tinto was left with four areas, known as Simandou blocks 1, 2, 3 and 4.

38. Two years later, in 2002, in order to renew its permit, Rio Tinto was required by the 1995 Code to retrocede half of its four areas. The Ministry of Mines wrote to Rio Tinto two to three months prior to the date for retrocession, requesting that the company submit a plan of which areas it intended to retrocede, subject to Ministry approval. Rio Tinto requested an extension to better determine which half it was to return. However, instead of retroceding half of its area, Rio Tinto approached the President’s office and presented it with a pre-prepared mining convention it had drafted, requesting that the Minister of Mines execute the document. The proposed mining convention awarded Rio Tinto a 25 year concession to develop Simandou blocks 1, 2, 3 and 4. The mining convention was signed by the GoG and Rio Tinto's subsidiary, Simfer, on 26 November 2002. In accordance with this convention, on 30 March 2006, Rio Tinto was granted a mining concession for these areas.

39. It is apparent, from the overwhelming majority of the reports and legal opinions I was given, that the award of the mining concession to Rio Tinto fundamentally circumvented the normal procedure for granting a mining concession and was in violation of the 1995 Code. For instance:

39.1 Rio Tinto had not submitted a feasibility study to the Ministry of Mines in respect of developing blocks 1, 2, 3 and 4. This is the necessary first step to start the negotiations for a mining concession and is required by Article 41 of the 1995 Code which provides:

"Concessions may only be issued where one or more deposits are discovered upon evidence duly constituted by a feasibility study..."\footnote{Ibid. p.17.}

The concession was therefore granted in absence of any evidence provided by Rio Tinto of key determinants including whether the iron ore deposits could be mined effectively and
profitably; the methods they intended to use to mine and process the deposits; the effect on
the environment; and an estimation of operating costs.

39.2 It is not for the applicant to draft the terms of a mining convention, but as set out at
paragraphs 29 to 33 above, the convention is a document of consensus, agreed upon after
weeks, if not months, of negotiations between the applicant and the committee of
representatives from all Government Ministries. The entire process of negotiation and
Cabinet approval was by-passed.

39.3 Once Rio Tinto obtained its illegal concession, it appears that it proceeded to default on most
of the contractual obligations included in its mining convention, from the development
chronogram to its obligation to provide complete geological, capex and opex information and
a feasibility study. To my knowledge Rio Tinto still has not complied with these obligations.

40. The Ministry of Mines documented the irregularities in Rio Tinto's award of a mining
concession and the violations of the 1995 Code committed by the company in a series of
internal memos that I reviewed during my inquiry. Most of the grievances found their way
later into the various letters from the GoG to Rio Tinto supporting its decision to impose the
2008 retrocession on the company. At the time, however, it appears that Rio Tinto had too
much power over the President’s office to be challenged by the ministry and the mining
concession was allowed to stand.

41. By 2007, Rio Tinto had still had not commenced development of the asset at Simandou
blocks 1, 2, 3 and 4, or even submitted a feasibility study. On 22 May 2008, the General
Secretary of the President's department, Mr Sam Soumah, sent a Notice of Grievances to Rio
Tinto, informing the company that a legal audit of its mining rights had been conducted by
the Office of the President. From reviewing the correspondence it was clear that the legal
audit had concluded that the way in which Rio Tinto was granted its Mining Concession was
illegal. The letter states that the mining concession granted to Rio Tinto on 30 March 2006
cravened the 1995 Code:

"… on the one hand in respect of the conditions for obtaining a mining concession, its period
and the terms for renewal, and on the other hand, the rights it grants your Company insofar
as the main undertaking to invest within the short-term for the works is contradicted by
prospecting rights that might last more than 15 years without any investment decision".

42. The letter concludes that "For all these reasons the authorities have decided to withdraw this
Mining Concession Decree on the grounds of illegality".

10 Email from M. Berkner of Skadden Arps to M. Gordon of Clifford Chance et al. (attaching documents
including letter from Sam Soumah to Simfer SA, dated 22 May 2008) dated 9 April 2010, p.3-6, (Exhibit C-
0137).
43. This letter provides a snapshot of the GoG’s disappointment with Rio Tinto at that time. However, taking the letter on its own does not capture the ongoing discussions which I was told had been taking place between Rio Tinto and the GoG, and which continued after the sending of this letter. In the course of these discussions, Rio Tinto had defended itself to the Ministry of Mines by stating that the reserves at Simandou were too small to warrant the cost of building the rail and port infrastructure necessary to properly develop the mine and that further exploration was necessary. Over the preceding years, Rio Tinto had provided estimates of its reserves to the Ministry, in reports and in various letters, of between 1 to 2.25 billion tonnes of iron ore at blocks 1, 2, 3 and 4. However, in 2008 Rio Tinto was the subject of a hostile takeover bid by BHP Billiton. A central facet of Rio Tinto’s defence against the bid was that BHP Billiton had undervalued the Simandou concession. Therefore, Rio Tinto was forced to revise its declared reserve estimate and disclosed that the Simandou concession held substantially more high quality iron ore than it had previously estimated. The markets generally valued Simandou iron ore at $6 per tonne, net present value (NPV), based on its grade and other factors. The higher estimate provided by Rio Tinto in the context of defending the takeover bid placed the NPV of the concession at between $48 and $66 billion. Mr Lansana Kouyate, the Prime Minister at the time, realised that Rio Tinto had not been fully transparent in its previous representations of the quantity of iron ore it had discovered at Simandou. The failure to properly report geological results is itself a major violation of the 1995 Code. The President, previously an ardent Rio supporter, grew frustrated that the company had failed to develop the reserve, thereby not paying anything back to Guinea in royalties and taxes, while at the same time creating between $48 and $66 billion of value for its balance sheet. This led to a hardening in the GoG’s stance.

44. On 28 July 2008 President Lansana Conté signed a decree effecting the 50% retrocession and demoting Rio Tinto’s rights in its remaining blocks to those of a prospection permit holder.11 Pursuant to Article 3 of the decree, "The rights of the Simfer S.A. company following the withdrawal of the mining concession are those of a holder of a research permit...".

45. On 30 July 2008, Mr Soumah sent a further letter to the company explaining the reasons for the President’s decree and raising a series of grievances regarding its mining concession at Simandou.12 The letter highlighted that the mining concession granted to Rio Tinto in 2006 "does not comply with the rules for the drawing up of an administrative order in accordance with our laws", and that Rio Tinto had failed to submit a feasibility study notwithstanding the

12 Letter from Minister Secretary General Sam Mamady Soumah to CEO of Simfer S.A, dated 30 July 2008 (Exhibit C-0093).
high levels of reserves at Simandou which had been exposed by the BHP Billiton takeover bid:

"To this day and for eleven (11) years you have only prospected a single block in the Mount Simandou range, where according to technical sources you have displayed several billion tons of proven deposits and according to yourselves 2.25 billion without having submitted a Feasibility Study to start the works in the three (3) years following the date of obtaining the mining concession.

That is to say that on your part there is a clear wish to freeze the deposits, not just in this block, but also in other parts of the Simandou range…

In other words, the delay of implementing the infrastructure, extraction and removal is a breach of the legal undertakings linked to obtaining the mining concession".

46. Mr Sam Soumah further explained that the GoG had no choice but to correct the decree granting the mining concession, by returning it to the status of a prospection permit. Accordingly, given that the company had not retroceded any land in respect of these permits since 2000, it was now required to submit proposals for retrocession in order to validate the renewal of its permits. The President set up a committee to decide which half of blocks 1, 2, 3 and 4 were to be returned to the CPMD. The committee attempted to agree with Rio Tinto as to the area to be retroceded.

47. Having reviewed correspondence exchanged between the GoG and Rio Tinto (acting through its subsidiary, Simfer), it appeared to me that the Ministry of Mines grew increasingly frustrated by Rio Tinto's efforts to delay and frustrate discussions on retrocession. On 19 September 2008, the Minister of Mines reiterated its request to Rio Tinto to provide "a retrocession plan proposal on your concession area" within eight days. From the letter it is apparent that this initial request for a retrocession plan had been communicated to Rio Tinto on 28 July 2008. On 26 October 2008, the Minister of Mines wrote again to Simfer. The letter acknowledges that Rio Tinto had now provided a retrocession plan, but that this referred to only 17% of its area being returned. The Minister of Mines requested again that Simfer provide its retrocession plan for 50% of its area within eight days. However, by December 2008, the Cabinet apparently concluded that Rio Tinto was not going to submit a retrocession plan. The Minister of Mines, Dr Lounceny Nabé, wrote to Simfer on 4 December 2008 to inform it of this decision, stating that:

"Given the lack of acceptable results with regards to the retrocession issue, the council ordered the Ministry of Mines and Geology to enforce the provisions of the Mining Code, corresponding, in this case, to a withdrawal of half of your current area. Please find

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13 Exhibit C-0137, p.15-17.
14 Ibid. p.18-20.
First Witness Statement of Mahmoud Thiam
CWS-5

enclosed a 50% retrocession plan highlighting the coordinates of the area accruing to you as well as those of the retroceded part”.\textsuperscript{15}

48. The retroceded half in the plan was Simandou blocks 1 and 2 as the Ministry of Mines had concluded that Rio Tinto had performed the least amount of work in those blocks. Accordingly, while the decision as to the withdrawal of blocks 1 and 2 from Rio Tinto occurred in December 2008, the decision that Rio Tinto must retrocede half of its permit area took place months earlier, in July 2008.

Investigation into how BSGR obtained its prospection permit at Simandou blocks 1 and 2

49. When the rights to blocks 1 and 2 became available, they were treated as the second category of prospection permit, i.e. applications for areas previously prospected. As set out in paragraph 27.2, there is no bidding process prescribed in the 1995 Code. The fall-back position is that the permit will be given out on a first come first served basis. Where there is more than one applicant applying at the same time, it will be awarded to the applicant with the best technical and financial capability.

50. Although I do not know the full details of every company that applied for the prospection permits in respect of blocks 1 and 2, the information provided to me in the course of my investigation showed that there were two final contenders: BSGR and a Canadian company. The Canadian company was run by a retired teacher or city government worker of Guinean origin. BSGR demonstrated that, unlike the Canadian company, it was already active in the area and therefore had the technical means to explore the area and that it had the financial capacity to do the prospective works necessary. It was apparently awarded the permits ahead of the other company on these factors alone.

51. I was not surprised to learn that very few companies applied for Rio Tinto's retroceded rights in Simandou, although the area was suspected to be high in iron ore deposits. Rio Tinto had publicly stated that it would vigorously contest the retrocession decision. The general assumption was that Rio Tinto would sue anyone who sought the permits. The industry was very aware of how much power Rio Tinto held over the President and feared the decision could be reversed through its usual lobbying prowess.

Investigation into direct allegations made by Rio Tinto that BSGR was a corrupt organisation

52. Following the first meeting with the Rio Tinto delegation, I put their allegations to BSGR. I determined that the allegations were not true. Beny Steinmetz's passport had not been withdrawn: I was present when he showed the President his passport. US banks had not

\textsuperscript{15} Ibid. p. 21-24.
refused to do business with BSGR: in fact, I was sent copies of letters from CEOs and Chairmen of US banks courting the company for business. Finally, BSGR was not a company without experience in the mining sector. In response to our inquiry, BSGR provided information showing that entities owned or controlled by BSGR held the biggest single shareholding in what later became Kumba resources, then the 5th largest iron ore miner in the world. We also received information about their ferro-nickel operations in the Balkans.

In addition, it was clear that not only did BSGR have experience in the mining sector, but that the company had specific experience in mining in Guinea prior to the award of exploration rights for Simandou blocks 1 and 2. I was informed that on 6 February 2006, BSGR was first granted prospection permits over areas in Simandou South and North. These permits did not overlap with the permits for Simandou blocks 1, 2, 3 or 4. In 2007, BSGR discovered iron ore in Simandou South in an area next to the village of Zogota (the "Zogota" area). They then embarked on the long geological prospection process that ultimately led to establishing large reserves and submitting a feasibility study. It is important to note that this level of experience in mining is not a pre-requisite to being granted a prospection permit. Having the means to fund the geological prospection is sufficient, since the technical know-how can be, and usually is, rented.

I was satisfied from my investigation that Rio Tinto's rights had been rightfully withdrawn on account of the company failing to comply with the 1995 Code, that BSGR had been awarded its prospection permits lawfully and that none of the allegations levelled against BSGR by the Rio Tinto delegation were substantiated or affected the previous governments’ decisions. The conclusion I reached was consistent with the decisions reached by previous governments. As I later represented to President Condé:

"...I would remind you that your current Mining Minister has been the mining adviser for all the Prime Ministers since the retrocession of blocks 1 and 2 in Simandou and their allocation to BSGR. You must, therefore, be capable of obtaining the reports from him and the negative recommendations they made [to cancel Rio Tinto's rights] to Prime Ministers Fall, Kouyaté, Souaré, Komara and Doré or to Mining Ministers Kanté, Nabé and Thiam in this regard from them. All this to remind you that all these successive governments as well as the vast majority of the Mining Ministry executives examined this case and determined that the retrocession was legal, restored Guinea's rights and rectified a previous violation of the mining code. This also corroborates the fact that the method for allocating the title to the retroceded blocks was correct."

I advised Rio Tinto that it should accept the withdrawal and concentrate on developing its mining concession at Simandou blocks 3 and 4. On 5 May 2009, I sent a letter to BSGR.

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16 Exhibit C-0136, p.2-3.
confirming that the exploration permits issued to it in respect of Simandou blocks 1 and 2 remained valid.\textsuperscript{17}

56. However, by June 2009, I was forced to write again to Rio Tinto following reports that the company was still ignoring the decision to withdraw its mining rights and had failed to remove its equipment from blocks 1 and 2.\textsuperscript{18} I informed Rio Tinto that we had evidence that they had "engaged in a subversive press campaign and in a defamation campaign against the Guinean State, its government, and some of its representatives... These activities are dangerously approaching an attempt at destabilising civil peace and weakening our socio-economic stability. We possess, I repeat, very clear evidence of these acts and we are currently evaluating different means at our disposal to sanction them".\textsuperscript{19} I had received reports from intelligence and police services and local community leaders who were worried about the risks of unrest in their communities, and a recording of a Rio Tinto employee making inflammatory statements to a group of “activists”. The tape was played to me and then to the Prime Minister by the journalist who secretly recorded it. I also re-confirmed in my letter that the investigation I had undertaken had been comprehensive and that the withdrawal of Simandou blocks 1 and 2 was "in compliance with the Guinean laws on mining and best international practice". I further reminded Rio Tinto of its failure to develop the asset:

"Rio Tinto has been present in Guinea since 1997 and that after 13 long years Rio Tinto is still, according to your own estimate, at least 5 years from exporting the first ton of iron ore from Simandou mountain range... The fact that a company of your size has not been able to develop one of the richest ore deposits of the world in such a long time poses several questions about your real intentions".\textsuperscript{20}

57. On 14 July 2009, Rio Tinto had still not removed its equipment from Simandou blocks 1 and 2 and Dr Kourouma, the Secretary-General to the Ministry of Mines, wrote to the company to "request you to immediately remove your equipment".\textsuperscript{21}

D. HOW BSGR OBTAINED ITS BASE CONVENTION FOR ZOGOTA

58. In January 2009, BSGR’s prospection permits for Simandou North and South granted in February 2006 were nearing the end of their three year term. Asher Avidan, the Director of

\textsuperscript{17} Certificate of Validity of Permit No. 2008/I-4980/MMG/SGGC32 issued by Mahmoud Thiam dated 5 May 2009 (Exhibit C-0013).
\textsuperscript{18} C-0137, p.27-30.
\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid.
\textsuperscript{21} Ibid. p. 31-33
Operations for BSGR, wrote to me to request the renewal of the prospection permits. Mr Avidan enclosed BSGR’s proposal for retroceding half of the area covered by its permits, in conformity with the provisions of the 1995 Code on the matter of renewal. The proposal was forwarded to the CPDM for review and recommendation, and in June 2009, I granted the renewal on the recommendation of the CPDM.

59. On 16 November 2009, BSGR submitted its feasibility study for Zogota to the Ministry of Mines, to commence the process for obtaining a mining concession pursuant to the 1995 Code. The feasibility study comprised 19 thick binders of documents, which showed the existence of a commercially viable iron ore deposit in Zogota and all the mining and infrastructure developments required. The documents were officially received by me, in my capacity as Minister of Mines, and then I transmitted them to the technical department responsible for the review and evaluation of feasibility studies, as per the prescribed procedure. It is this department – and not me – that determined whether the feasibility study was acceptable or lacking. Following a detailed review of the feasibility study, which took some time (and, I understand, included questions and answers going back and forth between the department and BSGR) the feasibility study was accepted. The department recommended that I set up a committee to negotiate the terms of a mining convention.

60. Members of the committee come from several ministries and staff from those ministries report to their respective ministers, not the Minister of Mines. I wrote to my colleague Ministers and asked that they appoint their representatives in the committee, and gave instructions to the committee that the negotiations should not last longer than six to eight weeks. When the Ministers had nominated their representatives, I issued a ministerial order on 1 December 2009 which formally confirmed the setting up and the members of the inter-ministerial committee to review the feasibility study and negotiate the terms of the mining convention. The committee met in the conference room of the Ministry of Mines every day from around 9am to 6pm until the negotiations were completed and they negotiated with BSGR with very little involvement from me.

61. One of the most sensitive issues in the negotiation was BSGR’s proposed transport solution, which was for the exportation of iron ore from the project through the port of Buchanan in Liberia, rather than a rail and port to be built through Guinea. This was a political issue for

22 Letter from A. Avidan of BSGR to Minister of Mines Mahmoud Thiam dated 21 January 2009 (Exhibit C-0101).
Guinea, as achieving export of iron ore from Guinea through a Guinean rail and port had been the stated national policy since independence.

62. The policy in Guinea for the previous 50 years had been that Guinean iron ore should not be exported through the neighbouring countries Liberia or Sierra Leone. Companies were using this policy as an excuse not to develop their mining projects, by arguing that the cost of building the infrastructure to transport ore through Guinea was prohibitively expensive. For instance, the area at Mount Nimba is rich in iron reserves and sits next to the Liberian border. To export the product through a port in Guinea, it would be necessary to build a new rail road across the entire country and a new mineral port on the coast, rather than exploiting existing infrastructure in nearby Liberia.

63. Prior to the commencement of negotiations with BSGR, I had decided that to prevent this excuse being used to frustrate development in the country, the GoG should amend its policy and grant one company the exclusive right to export iron ore through Liberia. I set criteria to determine which company to grant the right to, based on how developed their project was and its proximity to the Liberian border. I decided that the right had to be granted on an exclusive basis to ensure that other companies were still incentivised to build the trans-Guinean railway as a joint project so the total cost is shared by many and made bearable.

64. I first approached BHP Billiton, as its project at Mount Nimba was the most advanced at the time and it was closest to the border with Liberia. In addition, compared to other projects with large reserves and therefore prospects of high capital returns, Mount Nimba had relatively small reserves, making exporting through Liberia rather than through Guinea a necessity for the financial viability of the project. I contacted BHP Billiton in spring 2009 and asked that in return for the right, it would invest $100 million in infrastructure projects in the Nimba region. However, BHP Billiton offered only to invest $40 million over the next four years and a further $40 million over the following twenty five years. In addition, the majority of the projects proposed by BHP Billiton were already necessary for the company's own projects and therefore BHP Billiton would have literally spent the investment on itself. Given that the Liberian export route would potentially have saved the company billions of dollars, its resistance to investing $100 million in return was disappointing. The President instructed me not to waste more time and to move to the next best candidate.

65. I then approached Rio Tinto, which had been in the area for the longest period of time and therefore should have had the most advanced project. However, Steven Din, the Rio Tinto representative, told me in my office that they were not interested in exporting through
Liberia and only wanted to discuss the return of its rights in Simandou blocks 1 and 2. Thus I moved on.

66. My third choice was BSGR, which I approached only after the dialogue with the other two companies failed. I first made the overture verbally to BSGR, with the discussions then progressing in a written form as part of its negotiations for the mining convention. Zogota was a bit further from the Liberian border than Nimba and therefore for the Liberian export route to be of benefit to the project, BSGR would also need to build a railway within Guinea to connect the mine to the Liberian border. In return for the exclusive right to export iron ore through Liberia, the committee asked BSGR for an infrastructure compensation package. BSGR offered to build a passenger and light cargo railway across the major population centres of Guinea from Conakry to Kankan. I agreed to the proposal when consulted. The value of the railway was in the region of $1.2 billion. The offer was not a disguised repackaging of costs, which would have been necessarily incurred by the company in developing its projects, but instead would be of immense benefit to the Guinean people. This was more than the GoG ever expected and demonstrated BSGR’s commitment both to developing a mine in the area and investing in local infrastructure. On this basis, the committee agreed to grant BSGR the exclusive right to export iron ore through Liberia. This agreement was recorded in the Base Convention.

67. The precise terms of the right to export through Liberia were the subject of further negotiation. A special transportation committee was created. It was headed by the ministries of transport and mining on the GoG side and BSGR technicians on the other side. BSGR insisted that the right to export through Liberia was granted to the company and not exclusively to the Zogota project. This would ensure that if BSGR brought Simandou blocks 1 and 2 into production, that project would also be able to benefit from the Liberian transport corridor. The committee agreed to BSGR’s request in return for a commitment from the company to extend the proposed length of the passenger railway to the city of Kérouané.

68. The final terms comprised a two phase plan whereby in phase one BSGR would construct a light passenger railway from Conakry to Kankan, while developing the Zogota mine and, in phase two, would construct the Kankan to Kérouané leg once Zogota was in production and generating cashflow. In parallel, the company would build a heavy gauge mineral rail to link the existing rail in Liberia to the Zogota mines, and refurbish the Liberian heavy gauge rail and the port of Buchanan to export from Zogota and from blocks 1 and 2 if a mining concession was later granted in respect of those areas. The mining convention concluded with BSGR therefore included transport rights in respect of Simandou blocks 1 and 2, which were conditional on a mining convention later being negotiated for those areas. The rights in
relation to Simandou were transport provisions only and did not include rights to develop the Simandou blocks. Such rights can only be granted following the full process of completing a feasibility study and entering negotiations with the GoG. A feasibility study for Simandou blocks 1 and 2 was later completed in 2011, but the new government refused to negotiate the convention.

69. Following weeks of negotiation, the final consensus document was presented to me by the committee, with a recommendation for me to present it to the Cabinet of Ministers to approve. The Cabinet in turn debated the terms of the mining convention and suggested some improvements to the committee. The committee returned to negotiate the amendments with BSGR and sent a revised convention back to the Cabinet. The Cabinet voted in favour of signing the convention.

70. On 16 December 2009 the mining convention, known as the Base Convention, was signed by me, as Minister for Mines and Energy, Mamadou Sande, the Minister of the Economy and Finance, and Marc Struiik and Asher Avidan on behalf of BSGR. On 19 December 2009, Mr Mamo Sakho wrote to the Prime Minister providing an explanatory note of the issues discussed by the Council of Ministers and recommending that "the mining convention in Zogota be signed". As there was no Parliament to ratify the Base Convention, on 19 March 2010, General Konate, the Interim President of Guinea, issued (i) an Ordinance ratifying the Base Convention; and (ii) a decree granting the mining concession to BSGR. This is the process expressly prescribed by the constitution when there is no Parliament to ratify the convention. The order ratifying the Base Convention includes a written statement of Prime Minister JM Doré that says "Seen" on each page. That same day, Mr Soumah, the head of the CPDM issued a certificate confirming that BSGR had received the necessary authorisations to proceed with its mining concession.

71. The Liberian transport solution was also dependent on the agreement of the Liberian Government. Accordingly, on 13 January 2010, I wrote to the Liberian Minister of Mines

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25 Basic Agreement between BSG Resources (Guinea) Limited, BSG Resources (Guinea) Sarl, and the Republic of Guinea dated 16 December 2009 (Exhibit C-0069).
26 Letter from Vice Chairman of the Commission, Maitre Momo Sakho to the Prime Minister dated 19 December 2009 (Exhibit C-0138).
28 Confirmation Certificate issued by the CPDM dated 19 March 2010 (Exhibit C-0139).
requesting that he invite BSGR to conduct negotiations with a view to establishing the terms
of the passage through Liberia.29

72. I was extremely proud to have presided over the signing of the Base Convention with BSGR. It was
the first time a convention was signed that would allow the export of substantial quantities of iron ore from
Guinea. Exporting iron ore would transform Guinea’s economy as it had the potential, over time, to more than
double the country’s annual revenue and create over 100,000 jobs. The Base Convention was obtained through
legitimate procedures and entirely in compliance with Guinean law.

E. THE REQUIREMENT FOR EXTERNAL FUNDING

73. All developers of mining projects, regardless of their means, come to a point in the development of
an asset where they have to rely on external funding, be it bank loans, stock exchange listing or the sale of
shares in the company holding the mining licence. This external funding is required to pay back the monies
already invested by the original operator and to meet the growing expenses of the development of the asset.
The original operator bears the early risk that the area for which it has a prospection permit contains no
significant resources. If significant deposits are found, the operator’s patience is rewarded by the appreciation
in value of the asset, which can be leveraged for external funding. If no deposits are found, the money
invested for the initial prospective surveys is lost, which can easily run into millions of dollars.

74. Accordingly, on applying for a prospection permit, an operator does not need to show that it has the
financial capacity to develop the asset, but rather that it has the funds necessary to carry out exploration. The
project then develops in stages, with each stage representing an escalation in costs. At the first stage, a company
simply needs to have the financial capability to carry out initial prospection surveys to see if there is any promise
of economically viable deposits. If there is promise, they will then need sufficient funds to carry out
aeromagnetic surveys. If this then shows further promise, the company will have to move into more ground
prospection including increasingly expensive drilling and assaying campaigns. If the results are not good, however,
the company may at any stage cut its losses and relinquish the permit. There is a point in many projects where the
developer will find it necessary or preferable to raise outside capital depending on their strategy or ability to
sustain additional investments. At each stage of development which confirms the probable

29 Letter from Minister of Mines, Mahmoud Thiam, to Eugene Shannon, Minister of Mines and Land, Republic
of Liberia dated 4 January 2010 (the English translation is incorrectly dated 13 January 2013), (Exhibit C-0140).
presence of a resource of economically exploitable quantity and quality, the market value of
the permit increases.

75. For instance, after initial prospection, in 2006, Rio Tinto entered into a joint venture
agreement with the International Finance Corporation ("IFC"). In return for financing, the
IFC gained a five per cent interest in the company holding the mining concession for
Simandou blocks 1, 2, 3 and 4. In 2010, when the presence of reserves in blocks 3 and 4
was better known, Rio Tinto was able to attract far greater capital and it entered into a further
joint venture agreement with Aluminium Corporation of China ("Chinalco") in relation to its
remaining 95 per cent stake in its Simandou project. In return for $1.35 billion, Chinalco
was awarded a 47 per cent interest in the project, giving it an effective overall stake of 44.65
per cent (being 47 per cent of the remaining 95 per cent stake held by Rio Tinto). Accordingly, Rio Tinto's assets were valued at over $3 billion, notwithstanding that it had
paid nothing for its original prospecting permits in 1997. This is normal and similar to what
BSGR did.

76. In the case of BSGR, the company had been awarded prospecting permits in Simandou North
and South without geological data. It then invested millions of dollars in exploration to
survey the area. In Simandou North, no marketable deposits were discovered and the
permits were partially abandoned. The money invested in the abandoned permits was simply
lost. However, at Zogota in Simandou South, BSGR made a significant discovery of iron
ore. Other companies had previously considered Zogota to be sterile, but BSGR’s efforts
paid off. Together with blocks 1 and 2, I estimate that BSGR's proven reserves gave the
company holding its permits a net present value ("NPV") of $5 billion. This creation of
value allowed BSGR to raise external funding by selling shares in the company holding the
permits.

F. BSGR JOINT VENTURE NEGOTIATIONS

77. Although mining companies were not legally required to keep the GoG informed of their
negotiations with potential joint venture partners, and indeed Rio Tinto did not in relation to
its agreement with Chinalco, Article 62 of the 1995 Code provided that the Minister of Mines must approve the final agreement. It was therefore wise for mining companies to

30 International Finance Corporation, “IFC acquires stake in Guinea Iron Ore Project TO Support Sustainable
Mine Development” dated 5 September 2006 (Exhibit C-0141).
31 City AM, “Rio Tinto clinches West African Mining deal” dated 19 March 2010 (Exhibit C-0142).
32 Exhibit CL-0001, p. 20-21, Article 62 of the 1995 Code stipulates that "any contract or agreement by which a
mining title holder promises to make over, cede or transfer or by which he does actually make over, cede or
transfer, all or some of the rights and obligations arising out of a mining title, must receive prior approval
from the Minister of Mines".
keep the GoG up to date with negotiations, to ensure it would be content to sign the final agreement.

78. BSGR kept the Ministry of Mines informed throughout 2009 and 2010 in relation to its negotiations for a joint venture partner in respect of its projects in Guinea. In 2009, BSGR informed the Ministry of Mines that it had commenced negotiations with the Libyan Investment Authority (“LIA”). The Libyan President, on behalf of the LIA, sought comfort from the President of Guinea that the GoG would be supportive of the joint venture and requested that I fly to Libya to meet with the Chairman of the LIA, Saif Gaddafi. This was not unusual and I travelled in similar circumstances to meet with potential investors in the projects of other companies in Guinea, including Bellzone, Guinea Aluminia Corporation, Societe Miniere de Dinguiraye (“SMD”) and China Power Investment (“CPI”).

79. On my return from my meeting with Mr Gaddafi, I learnt that the LIA had pulled out of the negotiations with BSGR. My understanding was that this was on account of Saif Gaddafi’s close relationship with Oleg Deripaska, the President of Rusal. My relationship with Rusal was hostile, as a result of its failure to develop its asset at Friguia, and I was told by Mr Gadaffi that Mr Deripaska discouraged the joint venture and suggested that the LIA support his project instead.

80. Following the breakdown of the negotiations with the LIA, BSGR informed me it was entering talks with Chinalco and asked for my approval to commence negotiations, which I provided. However, BSGR subsequently informed me that, following numerous incidents of stalling from Chinalco, it suspected the company was not intending to close the deal. I spoke to the Chinese ambassador in Guinea for further information and it became clear that the deal would not go ahead, apparently because Chinalco had a strategic partnership with Rio Tinto and was ultimately persuaded not to pursue a deal with BSGR. I informed BSGR of this and BSGR later made the decision to pull out of the transaction.

81. I then received a request from BSGR for permission to engage with Shanghai Baosteel Group Corporation (“Baosteel”), which I granted. I understood that the talks with Baosteel were advancing well, until Chinalco wrote to the Chinese central government and complained that it was in exclusive talks with BSGR which Baosteel was infringing. Baosteel and Chinalco are both Chinese state owned entities and the Chinese government ordered a freeze on all talks until the matter could be resolved.

82. Following the collapse of the Baosteel negotiations, I authorised a request for BSGR to commence talks with Vale. Vale already had a small presence in Guinea, by way of bauxite permits, but it had not previously expressed an interest in developing iron ore there. After a
few weeks of talks between BSGR and Vale, in around March 2010 I received a telephone call from a BSGR representative to say that the negotiations were going well and that Vale wanted comfort that the GoG would approve the deal. I then had a series of calls and meetings with Vale personnel where I assured them that I would not oppose the joint venture. I put this in writing on 19 March 2010 in a letter to Mr Eduardo Ledsham of Vale, confirming that the GoG welcomed the proposed joint venture and that BSGR held its rights legally.\textsuperscript{33}

83. The joint venture negotiations concluded relatively quickly and on 16 April 2010, I received a letter from BSGR requesting formal approval of the implementation of the joint venture agreement with Vale.\textsuperscript{34} During my series of telephone calls, it was confirmed to me that the new joint venture vehicle was taking on every commitment and obligation set out in BSGR's convention. Therefore, I countersigned the letter to confirm that the GoG had no objection to the acquisition by Vale of a 51% share in BSGR.\textsuperscript{35} On 1 November 2010, I sent a letter to BSGR acknowledging the change of name of the company to VBG-Vale BSGR Guinea.\textsuperscript{36} I will refer to this entity as BSGR Guinea.

84. I believed that the joint venture agreement represented enormous benefits for the country of Guinea. A key goal of the Technocrat Government was to put iron ore into production by 2012. By signing the joint venture agreement with Vale, and therefore sourcing the external funding required to enter into the development stage, this goal became an achievable reality. Such an achievement cannot be over-estimated: in the 50 years of Guinea's history, no iron ore mine had been put into production, leaving the country unable to capitalise on taxes and royalties imposed on iron ore revenues. In addition, the BSGR Base Convention included the commitment to build the Conakry-Kankan-Kérouané railroad, which involved investment of approximately $1.2 billion. By purchasing a 51% stake in BSGR, Vale inherited this obligation, to be effected by BSGR Guinea. The value of this investment in Guinean soil therefore represented nearly half the $2.5 billion that BSGR should have received from Vale pursuant to the joint venture agreement. This was a tangible benefit to the people of Guinea who would have directly benefitted from the construction of crucial infrastructure for the country.

G. RELATIONS WITH MINING COMPANIES

\textsuperscript{33} Letter from Minister of Mines Mahmoud Thiam to E. Ledsham of Vale dated 19 March 2010 (Exhibit C-0023).
\textsuperscript{34} Letter from A. Avidan of BSGR to Minister of Mines Mahmoud Thiam with Endorsement from Minister of Mines Mahmoud Thiam dated 16 April 2010 (Exhibit C-0024).
\textsuperscript{35} \textit{Ibid.}
\textsuperscript{36} Letter from Mr Thiam to BSGR dated 1 November 2010 (Exhibit C-0030).
It was an essential part of my role as Minister of Mines to encourage development in the mining industry in Guinea, and in performing that role I developed excellent relationships with those companies who were advancing their projects and acting in the best interests of the country. The development of any project was a collaborative process between the Ministry of Mines and the mining company and it was inevitable that I enjoyed closer relationships with those companies which were actively managing their projects, and whose employees were therefore visiting the Ministry often. BSGR was one of those companies. However, I was no closer to BSGR than I was to representatives of other mining companies in Guinea, such as GAC, Bellzone and BHP and CPI, which were also progressing their projects efficiently. These companies all demonstrated, based on their action and work on the ground, that if they received the appropriate support, they would produce results for the country.

As I represented to President Condé in an open letter dated 26 November 2012:

"Mr. President, all the mining companies in Guinea and throughout the world who wish to conduct business in Guinea endeavour to develop good relations with the Mining Ministry, the Prime Minister, the President of the Republic and the authorities in general. This is why the 20:00 RTG programmes [a nightly television news programme in Guinea] provided extensive coverage of your audiences, as Head of State, with the investors. To not provide such coverage would demonstrate a lack of competence or arrogance. One of the major roles of the Mining Minister is to create the conditions whereby investors who want to put billions of dollars into our country know that they are welcome. We must not think, as we often do in Guinea, that they cannot go elsewhere. Since our independence more than fifty-four years go, this poor treatment of investors has consigned us to failure. To fail to entertain good relations with large or small investors would have been a breach of my duties as a Minister of the Republic. Consequently, I am waiting for someone to tell me what my crime is."

For instance, following a governmental visit to Liberia in October 2010, there was some confusion in the markets in respect of the GoG's intentions for exporting iron ore from the country. I was telephoned by a representative of Bellzone to clarify matters, which I did by email the following day. Such correspondence with representatives of mining companies was common.

In the case of companies that appeared purposely to be doing the bare minimum of prospective works, I did my best to help and support their progress but a personal relationship was more difficult to maintain. I had more problematic and hostile relationships with some companies that were in flagrant breach of the 1995 Code and had no interest in correcting their course, such as Rusal and Hyperdynamics. However, even in these cases, I still attempted to have cordial relationships in the hope that this would persuade the

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37 Exhibit C-0136, p.5.
38 Email from Mr Thiam to Nik Zaks of Bellzone dated 5 November 2010, (Exhibit C-0143).
Companies to change their course. For instance, I had a good relationship with Mr. Ismael Diakite from Rio Tinto and on occasion I would spend a day on his farm outside of Conakry with my sister and her family. For the avoidance of doubt, every decision I made was in the interest of promoting development in Guinea and my corresponding relationships with mining companies in the country developed on this basis.

89. Like other mining companies operating in Guinea, BSGR did at times pay for my travel expenses. However, this was standard practice. In the majority of cases, I usually paid for my official travel from personal funds and did not rely on government funding, which I was entitled to do. I did not want to burden the treasury of the (very poor) country I had come to serve. There were only four types of situations in which I allowed a company to pay for my travel expenses, all of which were legitimate. These situations were not set out in laws or regulations, but were rules I imposed on myself.

89.1 First, in my role as Minister of Mines, I was automatically appointed as the Chairman of a number of joint ventures between the GoG and mining companies. If there was a board meeting of such a company, and I was required to attend in my capacity as Chairman, that company would be required to pay for my travel expenses and those of other government and non-government board members.

89.2 The second category was if it was important for a company that I attend an event or meeting which would substantially disrupt a prior engagement. If the company insisted that I disrupt my itinerary at a cost to myself or the treasury, I would require the company to arrange or pay for my travel expenses. In such circumstances, I would either pay for my trip and be reimbursed by the company, or the company would buy my tickets for me. For instance, in or around November 2009, I was contacted by Mr. Steinmetz who informed me that he had a meeting with the President of Guinea. It is normal practice that the minister of the relevant sector is present when a representative of a company meets the President, and Mr. Steinmetz requested my presence at the meeting. However, I was due to be in Hong Kong for a separate important meeting over the dates of the proposed meeting in Guinea. Accordingly, I agreed to alter my plans in order to attend the meeting with the President of Guinea on the condition that BSGR make arrangements for me to be in Istanbul the same day so that I was able to catch a connecting flight to Hong Kong and make my scheduled meeting.

89.3 The third category occurred when a company invited a GoG delegation to visit its facilities either in Guinea or in other countries, to help the GoG make a more informed decision on the capabilities of a company or for research purposes. As I confirmed in a letter to President Condé, "it is common for mining companies to charter planes or to pay for the tickets of civil
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servants on State missions when these missions are related to the company's activities in the country”. 39 For instance, Rio Tinto chartered a plane and a helicopter for a team of Ministers to visit the Simandou site on my arrival in Guinea and also invited me and a team of perhaps 15 to 17 GoG officials on a trip to London and to Australia fully at its own cost. I was unable to attend but the delegation made the trip. Similarly, following the joint venture between BSGR and Vale, Vale invited members of the GoG to see what it had achieved in its iron ore mine in Carajás in Northern Brazil. The site was selected because the geological formations and topography and flora were so similar to Simandou. I attended the trip and Vale paid for my hotel. Although I paid for my flight, I would have been justified to let Vale pay. Vale also put a private jet at my delegation’s disposal that flew us all over Brazil.

Finally, I occasionally travelled in a company’s private jet. For instance, on approximately two or three occasions, I travelled in Mr Steinmetz’s private plane when he was travelling to Conakry from a city where I happened to be or from Conakry to the same destination as I was. These trips were not pre planned, but arose on an ad hoc basis if, for instance, I had mentioned to Mr Steinmetz that I was about to fly to Paris and he was also. On one occasion one or more colleagues travelling with me also flew on Mr. Steinmetz’s plane. As I recall, we had travelled to Europe on an official mission for the President. Our return coincided with Mr Steinmetz’s plane heading to Conakry and we simply caught a ride. I do not recall the exact date.

I took no steps to conceal or disguise any of the arrangements I have described above. They were legal, and I was completely open about them. For example, with regard to the trips in Mr. Steinmetz’s private plane, I landed officially in Conakry and was greeted by state protocol and by my staff at the airport. Whenever I left Guinea on a private plane of a company, the Prime Minister and the President were duly informed.

H. BRIEFINGS OF ALPHA CONDÉ

In the run up to the second round of the Presidential elections in 2010, I volunteered to brief both candidates, Cellou Dalein Diallo and Alpha Condé, about the status of the mining sector, including what we had achieved during the Technocrat Government, likely issues which I predicted would arise and my recommendations for dealing with these issues. I was aligned to no political party and had personally donated equal amounts to both campaigns in an effort to support what I believed to be a democratic process. The donation to both candidates was accompanied by the same message, which offered encouragement with the upcoming election and made clear that I did not want a position in a new government nor did

39 Exhibit C-0136, p.6-7.
I expect anything in return. Accordingly, I felt that the candidates would trust my judgment and welcome my advice.

91. I briefed each candidate once, prior to the second round of the elections. After round two, I briefed the president elect several times. In my briefing with Mr Diallo he listened politely and said little. I understood from members of his campaign that Mr Diallo had been speaking to Rio Tinto and that his mining agenda had already been formed by those discussions.

92. Mr Condé was more receptive and I had several meetings with him. The first was a general debrief before the election, one after he was elected but before he was sworn in and a few after he was sworn in.

93. In the general debrief, I provided him with a status report in relation to the on-going projects in Guinea, which I expanded upon during our subsequent conversations.\textsuperscript{40} In relation to Rio Tinto, I told Mr Condé that we were approaching a point where Rio Tinto was due either to submit a feasibility study or to retrocede half of blocks 3 and 4, as mandated by the July 2008 decree which reverted the company's status to that of a prospection permit owner. I advised Mr Condé that, if elected, he could use this as an opportunity to force Rio Tinto to comply with the law and to adhere to a development calendar, in return for an agreement that the company would not have to retrocede half of blocks 3 and 4. Mr Condé was extremely robust in his response to me. He told me that if he came to power he would not even renew Rio Tinto's prospective licences on account of their violations of the 1995 Code, let alone allow them not to retrocede half on renewal. As I later told Mr Mebiame, Mr Condé said to me, "Listen, I'm not even going to ask for their retrocession like you, I'm going to cancel their licence".\textsuperscript{41}

94. Mr Condé's response was similar in respect of Rusal, which again had violated the 1995 Code.

95. With regards to BSGR, I provided Mr Condé with an overview of the status of the Zogota project. I informed him that BSGR Guinea was in line to produce the first iron ore from Guinea in its 50 year history, by the first quarter of 2012. I stated that BSGR Guinea also had an obligation to complete the first leg of the Conakry-Kankan-Kérourané railroad by the time they exported their first ton from Zogota and I explained the logic of granting the company a 3-year exclusive right to export iron ore through Liberia. Mr Condé appeared to understand and agree with the rationale for the period of exclusivity, without which, BSGR

\textsuperscript{40} Status Report dated December 2010 (Exhibit C-0144).
\textsuperscript{41} Exhibit C-0135, p.67.
Guinea would not have committed to building the Conakry-Kankan-Kérouané railroad. I further explained the joint venture agreement BSGR had entered into with Vale. I emphasised that before the end of his first term, as a result of BSGR's work, Mr Condé would be the first President to export iron ore from Guinea, the President who presided over the building of a Conakry-Kankan-Kérouané railroad and the President who brought in additional revenue from the taxation on iron ore at a value initially of approximately 20 to 25 per cent of total GDP. Mr Condé appeared impressed and stated at the time that he agreed with me and the decisions I had made without reservation.

96. My briefings also addressed the issue of some mining companies having violated their conventions and/or the 1995 Code, mainly Rusal, Rio Tinto and Hyperdynamics. I had no suspicion that companies such as BSGR or Bellzone had violated either contracts with the GoG or the Code and expressed this to Mr Condé.

I. ELECTION OF ALPHA CONDÉ

97. The provisional results of the Presidential election were announced on 15 November 2010, declaring Mr Condé the winner. A few days after this, in one of my final acts as Minister of Mines, I and the Minister of Transport, Colonel Bangoura, approved BSGR Guinea's proposal to commence work on the first 40 kilometres of the Conakry-Kankan railroad.  

98. On 2 December 2010, the Supreme Court confirmed the results and Mr Condé was sworn into office on 21 December 2010. The following day, on 22 December 2010, the Prime Minister and the entire government went to see Mr Condé to congratulate him and tender our resignation.

99. Mr Condé had previously asked me to continue in my role as Minister of Mines in his new government. However, I had made clear to him that I had commitments to my family in New York and had only ever seen the role as a short-term commitment. Mr Condé accepted this and asked me to recommend someone to take over from me. I recommended Mohamed Lamine Fofana as he had several years of experience advising Prime Ministers on mining issues, including as advisor to the Prime Minister of the Technocrat Government.

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42 Letter from Minister of Mines Mahmoud Thiam and Minister of Transportation Mathurin Bangoura to BSGR Guinea dated 22 November 2010 (Exhibit C-0031).
43 Exhibit C-0131, p.18: "Even between the two rounds, in the house of one of his friends etc. And we spoke, and he asked me if I wanted to stay. I said to him: “I can’t”. I had promised my family to stay 6 months, 12 months maximum; I’d done 24 months, I wanted to leave. I said: “I’m ready to advise you from a distance, but I can’t go back into your cabinet: I can’t remain your advisor as an official advisor.” But I said “However, Fofana, who’s here” – and Fofana was in the next room, he was letting me speak, he had been with us and he left to let me speak – “is up to date with all the files I’ve worked on while being Minister of Mining. I’ve involved him, he’s up to date – I suggest you take him an [sic] Minister of Mining.”"
Jean Marie Dore. He was therefore abreast of the decisions which had been taken while I was Minister of Mines and before. Mr Condé accepted my recommendation and invited Mr Fofana to join his government. I saw this gesture as an indication that Mr Condé trusted my judgement and would accede to the advice I had provided to him in the briefings.

100. I returned to New York shortly after resigning and set up Thiam & Co. The firm focuses on five areas: Mining and Oil & Gas, Real Estate and Infrastructure, Agriculture, Security, and Financial Services. Through this consultancy, I maintained contact with a lot of mining companies in Guinea and continued to keep up to date with developments in the mining sector there.

101. It soon appeared to me that Mr Condé was taking decisions which had the impact of undermining the projects of Bellzone and BSGR, both of which had been close to putting their iron ore mines into production. At the beginning of his tenure, I assumed that Mr Condé was misguided but acting in good faith. However, in the spring of 2011, I received a telephone call from him asking me about my approval of the joint venture between BSGR and Vale. Mr Condé stated that he had been told that I had authorised the sale of 51% of the mining permit. This would have been illegal, as pursuant to the 1995 Code, a company is not allowed to assign the rights. I informed Mr Condé that his information was wrong; I had approved the sale of 51% of the shares in the company which owned the mining concession, which was legal. From his tone and questions, it was apparent to me that Mr Condé disappointed with my response.

102. I had previously heard rumours from various sources inside the Technocrat Government that Mr Condé’s election was not legitimate and that he had planned to expropriate mining assets to share with those who had, I was told, assisted in rigging his election. Mr Condé's telephone call and a few public and private declarations he made confirmed in my mind that the rumours were true and that he had set out to revoke BSGR's rights to blocks 1 and 2. BSGR and Bellzone had the most advanced and valuable projects in the iron ore sector. It therefore made sense to me that if Mr Condé did want to compensate or gratify his political allies, the assets of BSGR and Bellzone would be the ones he attempted to seize. As per his own words reported to me by Mr Mebiame and others, for Mr Condé to succeed he had to discredit me, and I believed that was why he had set out systematically to undo what I had achieved during my time as Minister of Mines. I was the Minister of Mines who presided over BSGR and Bellzone being granted mining concessions. To discredit me would make those concessions illegitimate. He made statements to that effect to several people who repeated them to me.
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103. This was also confirmed in my taped conversation with Mr Mebiame, who informed me that just one week after President Condé's inauguration, he had told Mr Mebiame that "You must put everything on Thiam... he's the ideal victim". Mr Mebiame commented that "He [President Condé] targeted you like an ideal scape-goat, from the beginning".

Undermining of achievements

104. In relation to BSGR, Mr Condé ordered a halt on works on the Conakry-Kankan-Kérouané railway. Mr Condé first argued to me that the works needed to stop because the proposed width of the rail – the gauge – for the passenger railway was antiquated. The width of the rail determines how much weight it can sustain. Accordingly, if the railway needs to transport 100 million tonnes of iron ore per annum, a wide, heavy gauge is required, which is very expensive to build. If, however, the railway is for passengers and light merchandise, a narrow gauge which can sustain 25 to 30 million tonnes per annum is sufficient. The latter would still allow for the transport of low volume mining operations, such as bauxite and is more economical.

105. In the negotiations for the BSGR Base Convention, we discussed the specifications for the Conakry-Kankan-Kérouané railway and the technocrats from the Ministry of Mines and the Ministry of Transport had agreed on a narrow gauge on account of it being sufficient for the purpose (namely a passenger and light merchandise transport link), it was cost effective and a wide gauge would increase costs by 50 to 60% with no practical benefit. In the same way that you would not use a Ferrari to do farming, a wide gauge was not necessary for a passenger railway. Mr Condé ignored this logic. Mr Condé stated that instead, the Guinean military would build the railway. However, four years later, there has been no progress.

106. Mr Condé also stated publicly that BSGR Guinea would not be allowed to export iron ore through Liberia. Zogota could not export by 2012 without passage through Liberia. Neither time nor the size of its reserve would have allowed for the construction of a heavy gauge rail and port through Guinea.

107. In the case of Bellzone, Mr Condé awarded a concession to Rio Tinto on the same concession corridor which Bellzone already held. This was notwithstanding that Mr Condé's core team comprised individuals who had granted the original concession to Bellzone.

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44 Ibid., p.37.  
45 Ibid., p.70.  
46 Vale Weekly Guinean Press Review dated 28 February 2011 “I have made myself clear: all the production shall be exported from the Conakry port.” (Exhibit C-0103).
108. In contrast, Mr Condé entered into an agreement with Rio Tinto whereby in return for the payment of $700 million to the GoG, Rio Tinto was granted a mining concession, its proposed joint venture with Chinalco was approved, it was forgiven for all previous violations of its mining agreements and the 1995 Code, and it was granted immunity from the GoG's proposed review of the 1995 Code and any future reviews.\textsuperscript{47} I was extremely surprised to learn about the settlement agreement with Rio Tinto. Mr Condé had an opportunity to force Simandou blocks 3 and 4 into production, either by forcing Rio Tinto to complete its feasibility study or to open up the areas to a company which was committed to developing it. Instead, Rio Tinto was granted a mining concession outside of the normal process and four years later, it has still not submitted a feasibility study or commenced production. This was at complete odds with Mr Condé's strategy in respect of BSGR and Bellzone, which – without his intervention – would have been in production. I did not understand why Mr Condé was making deals with companies that were in flagrant violation of the 1995 Code, while targeting companies which were in compliance.

109. Mr Condé also announced that he was to review the 1995 Code. In itself, this was not a bad decision; it needed to be updated to more modern international standards on issues such as the environment, and needed “teeth” on the enforcement side. However, I had already overseen a large-scale project reviewing the 1995 Code, which Mr Condé totally ignored. Prior to my nomination as Minister of Mines, the World Bank had sponsored and financed a programme to review and modernise the existing 1995 Code. When the Technocrat Government was put under sanctions in mid-2009, the World Bank suspended its funding and the process stalled. However, given the importance of the programme and that the review was nearly completed, I made the decision to revive the review using a combination of ministry-generated funds and a grant from the French Development Agency. I appointed a Chairman to the existing review committee to push the review forward and hired outside consultants to review the draft code produced. By the time of Mr Condé’s election, the review process had been completed and the final report from the outside consultant was due to be delivered. I was proud that I was leaving the post of Minister of Mines with a draft revised mining code and had informed Mr Condé of this in his briefing sessions.\textsuperscript{48}

110. Yet, Mr Condé chose to ignore this process in its entirety and incurred the costs of a new review process. The result of the new process was the publication of the 2011 Mining Code, which was meant to replace the 1995 Code. However, this was met with widespread market

\textsuperscript{47} Rio Tinto Press Release, "Rio Tinto and Government of Guinea sign new agreement for Simandou iron ore project" dated 22 April 2011 (Exhibit C-0061).

\textsuperscript{48} Exhibit C-0144.
criticism, resulting in the GoG almost immediately ‘suspending’ the application of its tax and customs rules and in effect not enforcing the remaining provisions.\textsuperscript{49}

111. Mr Condé had the opportunity to become the President who presided over the first export of iron ore from Guinea, who implemented a successful revision of the Mining Code and who forced Rio Tinto into production. Instead, and to the detriment of the Guinean people, his first term resulted in preventing Bellzone and BSGR from developing assets, halting the building of the Conakry-Kankan-Kérouané railroad, tolerating Rio Tinto's failure to develop Simandou blocks 3 and 4, the implementation of a defective Mining Code, and seeing the shutting down of many high profile and very advanced mining projects such as BHP’s projects at Nimba and Boffa.

\textbf{J. THE TECHNICAL COMMITTEE’S ALLEGATIONS}

112. On or around 16 October 2012, I was contacted by a journalist asking me to comment on a letter addressed to BSGR Guinea, which apparently contained allegations about me.\textsuperscript{50} I informed the journalist that I did not know about the letter, and he in turn provided me with a copy. The letter was written by a Technical Committee apparently set up by Alpha Condé to investigate mining rights (the "Technical Committee") and contained "\textit{certain serious allegations regarding the manner in which BSGR obtained its Guinean mining titles}” (the "Allegations Letter").\textsuperscript{51} However, the date on the letter was 30 October 2012, suggesting that I, and members of the media, were informed of its contents before its intended recipient, BSGR Guinea, or BSGR. I also noted that the letter was stated to be confidential, yet it was already in the hands of a journalist.

113. Not only did the Allegations Letter contain allegations about BSGR, but I was directly implicated in the company’s purported wrongdoing, even in respect of events which were known to have occurred two to three years prior to my appointment as Minister of Mines. The Allegations Letter represented a direct attack on my integrity and I felt I could not remain silent. I had not been approached to give my version of events by the Technical Committee, nor was I formally served with a copy of the Allegations Letter. I therefore felt that the only way to respond was in the same way that I had learnt of the very serious allegations being made against me: through the media. Indeed, I felt that BSGR was too passive and quiet in responding to the clearly baseless Allegations Letter, whereas I preferred

\textsuperscript{49} Norton Rose Fulbright, “\textit{Amendments to the Guinean Mining Code}” dated June 2013 (Exhibit C-0141); and Overseas Development Institute, “\textit{Guinea elections: a watershed for the private sector?}” dated 27 September 2013 (Exhibit C-0146).

\textsuperscript{50} Exhibit C-0135, p.36.

\textsuperscript{51} Letter from Technical Committee to BSGR Guinea, dated 30 October 2012 (the Allegations Letter), (Exhibit C-0053).
to fight back in the media. On 26 November 2012, I sent an open letter to President Condé rebutting the allegations.\footnote{Exhibit C-0132.} I wrote the letter in French, but in this statement I quote from an English translation.

114. In summarising the faults of the Allegations Letter, I stated that:

"Mr. President, it is distressing to see that the majority of the correspondence demonstrates an ignorance of the facts, their veracity and even their credibility. Futile interrogations are given the same weight as questions to which it would be worth finding an answer. The chronology of certain events has been knowingly altered. Implausible events are treated seriously and accusations for which there is not a shred of evidence are made without restraint. As a result, events which would neither be illegal nor ethically wrong, if they had happened, are listed in the correspondence as though they were incriminating evidence. Activities which constituted a simple competitive pursuit of a commercial goal are presented as though they were instances of influence peddling.\footnote{Ibid., p.2.}\footnote{Ibid., p.4.}\footnote{Exhibit C-0053, p.7, paras 22 to 24.}"

115. A key allegation in the Allegations Letter is that BSGR obtained its rights without any intention to conduct the work required and that it intended from the start to transfer all or part of its rights to a third party. Without repeating what I have already said above, this allegation demonstrates a fundamental misunderstanding of the facts and the mining regime in Guinea. BSGR's obligations when it obtained a research permit were to prospect and develop geological knowledge of the areas allocated to it. I believe it did just that. Furthermore, it is not illegal to seek external investment and as I stated to President Condé, "I challenge your Committee to show me a mining project of this scale which was developed in any other way... Your government attempted to sell shares in CBG and the Simandou infrastructure project to Mubadala... This is exactly what BSGR did by inviting Vale into the Guinean project... Why then, did the Committee use two different yardsticks for absolutely identical situations?".\footnote{Ibid., p.4.} I concluded that the inclusion of this so-called "allegation" was evidence that the Committee process was being conducted in bad faith.

116. The allegations made against me by the Respondent acting through the Technical Committee can be summarised as follows: (i) that I illegitimately promoted BSGR's interests; (ii) that I distributed funds to other government officials on BSGR's behalf; and (iii) in exchange for this assistance, I received gifts and financial benefits from BSGR. The premise of the allegations is that BSGR was awarded its Base Convention in return for payments to me.\footnote{Exhibit C-0053, p.7, paras 22 to 24.} As explained in detail below, these allegations are categorically false. For the avoidance of doubt, I did not distribute BSGR funds to other government officials, I did not act corruptly to promote BSGR's interests and I did not receive gifts and financial benefits from BSGR.
Illegitimately promoting BSGR’s interests

117. The Allegations Letter provides four examples of how I apparently "aggressively promoted the interests of BSGR" in return for corrupt payments, all of which are false. At allegation 24, the Allegations Letter states that:

"II.24 In exchange for payments and benefits provided and in the interests of receiving new ones, Minister Thiam worked aggressively to promote the interests of BSGR. In February 2009, he renewed the mining titles to Simandou with respect to Rio Tinto, excluding Blocks 1 and 2 in order to effectively bolster the rights of BSGR to these blocks. On December 21, 2009, he signed the Basic Agreement for the development of mineral deposits in Zogota favoring BSGR. In April 2010, he expressed that he was in agreement with contracts executed between BSGR and Vale, without him having obtained, nor reviewed the underlying documentation thereto. During this period, he publicly advocated in favor of the interests of BSGR, promoting, in particular, a project for the exportation of minerals from Simandou, through Liberia, contrary to the national strategy at the time aimed at the development of a trans-Guinean railway for the export of Guinean iron ore."

117.1 First, I was not involved in either the decision to withdraw Rio Tinto's right to Simandou blocks 1 and 2 or to grant prospection permits in relation to these blocks to BSGR. Both decisions were made before I became Minister of Mines. It is accordingly misleading to state that I "aggressively promoted the interests of BSGR" by affirming the rights of the company to blocks 1 and 2. Furthermore, the decision to revoke Rio Tinto's licences was made and/or confirmed by 5 consecutive Prime Ministers and 6 consecutive Ministers of Mines including the current ones serving under Alpha Condé. Some of these members of previous governments even sit on the Technical Committee. As I represented to President Condé:

"Some members of your Committee were in the Mining Ministry throughout this period and were among my closest colleagues. I have no recollection of a single conflicting voice on this topic. The presentation of the facts in the committee’s correspondence and the multiple allusions to myself allowed the media to infer that I played a role in the retrocession of the titles and then in their allocation to BSGR. This presentation distorted reality by twisting the chronology of events."

In addition, the renewal of Rio Tinto's prospection rights to blocks 3 and 4 in 2009 was not only a legal obligation as ordered by a Presidential Decree, but was actually sought and welcomed by Rio Tinto, since their status in Simandou was unclear and likely illegal until that new permit was issued.

117.2 Second, as set out above, I signed the BSGR Base Convention following a rigorous negotiation between technocrats from across the GoG and members of BSGR. This was not

56 Ibid., paragraph 24.
57 Ibid., p. 7.
58 Exhibit C-0136, p.2-3.
a decision I made unilaterally and involved detailed and careful consideration of BSGR’s feasibility study for Zogota. Rather than being rebuked for this, it was one of my proudest moments and brought the country closer to finally producing and exporting iron ore. During the same period, the Technocrat Government also signed a mining convention with Bellzone and recommended that an inter-ministerial committee be trained for the purposes of negotiating an agreement with CPI, as soon as that company provided its feasibility study. Indeed, I note that after my departure as Minister of Mines, a convention with CPI was announced with lots of ceremony. These agreements were negotiated in no different a manner to the convention with BSGR.

117.3 Third, I gave my approval to the joint venture agreement with Vale after being kept abreast of the negotiation process by BSGR and after receiving confirmation that the new joint venture vehicle would honour BSGR’s obligations in its mining convention.

117.4 Finally, the export of iron ore through Liberia was not contrary to the national strategic interest given that it was accompanied by a commitment to build a Conakry-Kankan-Kérouané railway and would have led to the first exportation of iron ore from Guinea in its 50 year history. As I highlighted to President Condé, "...when this national policy has not provided the result desired in 52 years, it is time to try something else. This is what we did. This was presented in the Council and debated. It was established that the new approach would finally make it possible to achieve our national objectives".59 It is worth noting that the GoG announced with great fanfare that the same rights were granted to Sable Mining.60

118. None of the examples above provides any evidence that I acted illegitimately in respect of BSGR.

**Distribution of funds to other officials**

119. At allegation 22, the Allegations Letter falsely states that I acted as an agent for BSGR by organising the distribution of cash from the company to high military officials. While it is impossible for me to prove a negative, I confirm that during my time as Minister of Mines I did not receive any money from BSGR and I did not distribute funds on behalf of BSGR to other ministers or military officials.

119.1 I responded to this allegation in detail in my open letter to President Condé:61

60 The Sunday Times, "Edmonds wins big in Guinea" dated 6 October 2013 (Exhibit C-0147).
61 Exhibit C-0136, p.5-6.
"Point: II.22 Here, you maintain that I received the plane from BSGR at the airport on several occasions and received cash to distribute among people in Guinea. First of all, Mr. President, I only recall seeing a BSGR plane at the airport on three occasions: (1) When a foreign statesman arrived on a flight chartered by the company, (2) when departing from a visit to the Zogota site on a plane chartered by BSGR, in the company of executives from the Mining Ministry, as well as other ministries and, finally, (3) when I myself benefited from the departure of their plane from Guinea to go to Europe, where I had a mission. However, I can confirm that I frequently travelled on private flights during the two years I spent in Guinea. Your observers are perhaps confusing the types of planes and their identification numbers. These planes were in no way connected to BSGR. Please check again with your sources.

As regards the money given to Mr. Thiam or distributed by him, I must confess that being treated like a baggage porter shocks me greatly. Everyone in Guinea knows that I have a certain level of self-respect and that there are tasks which I would never perform, even if I was in need. However, it is true that I have often given my own money to many compatriots: friends, minister colleagues, associates or others. Each time someone came to me with a problem and I was able to help, I reached into my pockets and contributed as much as I could. If some people now are claiming that it was other people’s money that I gave, then they are free to do so…

I must say that all the financial assistance which I gave was taken from my own resources which had been earned by the sweat of my brow over a long career in the private sector here in the United States. I defy anyone to give me an example of a service I demanded in return for my generosity, as logic dictates that a service is expected in return for an act of corruption".

Gifts and financial benefits

120. Allegation 23 of the Allegations Letter states that:

"II.23 BSGR would have provided numerous gifts and pecuniary benefits, involving substantial amounts, to Minister Thiam during the period in which he held his ministerial post. In addition, BSGR made his corporate airplane available to Minister Thiam, authorizing him to use this airplane for his travels abroad. Minister Thiam went to Geneva on one occasion, where he stayed at the Mandarin Oriental Hotel. All arrangements related to his lodging and entertainment were organized and paid for by BSGR. On one other occasion, Minister Thiam went to Israel where he attended the marriage of Mr. Steinmetz’s daughter."62

121. As explained above, the use of Mr Steinmetz's private plane was not offered or provided in return for me promoting BSGR's interests. I did not consider the offer of travel in Mr Steinmetz's plane to be any attempt to influence my decision making. This was not suggested at the time and had it been suggested, it would have been rebuffed. I have used private planes from other mining companies for various justifiable purposes. For instance, Vale paid for members of a large GoG delegation led by me to travel to Brazil, and while in Brazil, made a corporate jet available to us to travel around the country to various mining sites.

62 Exhibit C-0053, p. 7.
122. The accusation about BSGR paying for my hotel accommodation is similarly false. Had the stay at the Mandarin Oriental Hotel fallen into one of the four categories outlined in paragraph 89 above, there would have been nothing wrong with BSGR paying for my stay, in the same way that it was not wrong for Vale to pay for my accommodation in Brazil. However, the allegation is untrue. When I first received the Allegations Letter, I asked my assistant to contact the Mandarin Oriental Hotel and ask them to send me a list of my stays there over the period of early 2008 to late 2011- a full year before and after I served as Minister. The Mandarin Oriental Hotel was one of two hotels that I regularly stay at in Geneva and I have been staying there since approximately 1995 or 1996. The records demonstrated that over the period, I stayed at the Mandarin Oriental Hotel once the year before I became Minister, and four times while I was Minister. On all occasions, I paid with my credit card, except one stay when I paid in cash. On no occasion did BSGR reimburse me for these stays.

123. In respect of Mr Steinmetz’s daughter’s wedding, I did attend the event. However, this was not on account of any personal relationship between me and Mr Steinmetz. Mr Steinmetz invited the President of Guinea to his daughter’s wedding as a courtesy. The President could not travel and instructed me to go to the wedding to represent him. On his instruction, I attended the wedding and brought a local artefact as a gift.

124. As I explain in detail above, the allegations about my conduct in the Allegations Letter are based on an entirely fabricated account of events. As I concluded in my letter to President Condé:

"Mr. President, while re-reading my responses, I see that I have started so many paragraphs with “you accuse me” or “I am rebuked” that it would have been easier to replace them with “I am called”. The proceedings you seem to wish to undertake hark strangely back to a not so distant past in our country when, because of greed, jealousy or simply spite, some condemned their citizens to torture and murder in the Boiro Camp. A time when it was possible to kill by accusing someone, at the same time, of being a Nazi agent or a Zionist spy (this in 1970, not in 1944), one thing and its opposite. Even the style of the committee’s correspondence is strangely similar to the accusation documents written by revolutionary committees of yesteryear and the proclamations made previously by these same Committees, which always started with “I am called”. In light of the scandals which have tarnished our mining sector over the last few months, we may ask ourselves if you wish to make your Committee an instrument for confiscating assets belonging to some mining companies, serving them back up again to interest groups to whom you have made promises in exchange for electoral contributions”.

125. Notwithstanding the falsity of the allegations set out above, the Technical Committee concluded in its final report that "in parallel to granting the mining titles and the mining agreement on the deposits of Zogota and Simandou mentioned above, BSGR offered gifts and

63 Exhibit C-0136, p.9.
financial advantages to Guinean authorities and their direct entourage." To the extent that this is intended to refer to me, the allegation is false.

K. MEETING WITH MR MEBIAIME

126. Shortly after I received the Allegations Letter, I was contacted by General Sekouba Konate, who told me that Mr Mebiame had asked him to organise a meeting with me, and that he had valuable information to give me. I told the General that some of my former ministry staff had previously told me that Mr Mebiame had offered to bribe them in exchange for potentially damaging information on me that he could pass on to Alpha Condé. I, therefore, did not particularly wish to see him. The General insisted that Mr Mebiame and Alpha Condé had fallen out, and that Mr Mebiame sought to share evidence that Condé indeed rigged the elections.

127. We met in Miami around 2 December 2012. Our conversation was recorded. As to many of the subjects we discussed, I had no first-hand knowledge. I was either learning of these subjects from Mr Mebiame or supplementing the information I had gathered from various sources, such as newspapers and investigative journalists. Even where I recite portions of this conversation herein, I cannot vouch for the accuracy of those statements.

128. I had not met Mr Mebiame prior to this meeting and he provided me with his background. I learnt that he had worked in South Africa for 12 years, his father was the former Prime Minister of Gabon and he had worked as a lobbyist in the mining and oil and gas sectors. I also learnt that he had worked closely with Alpha Condé both prior to and following his election victory in 2010, but that President Condé had failed to repay a large debt due to him. It was clear to me that Mr Mebiame had concluded that President Condé was not going to repay the debt, and that he now wanted retribution. While he had received $25 million back from President Condé, on account of a cancelled loan, Mr Mebiame told me that he had in fact given the President "much more" but that "I can't get it back... that's why I'm talking to you". Given the recent publication of the Allegations Letter, Mr Mebiame suspected that we had the same goal: to expose the corruption of President Condé.

129. Mr Mebiame proceeded to tell me about his involvement in Mr Condé’s illicit deals to rig the 2010 Presidential election in return for shares in state mining assets. My knowledge about these matters is based on what was discussed in the press, amongst people who follow events in Guinea and what Mr Mebiame told me during our conversation. I understand that Mr

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64 Exhibit C-0064, p. 11, para 27.
65 Exhibit C-0135, p.13.
66 Ibid., p.23.
Cramer has addressed Mr Mebiame's statements in detail in his witness statement of 25 November 2014.\(^67\) I have not read the statement in great detail but based on the quick read I took, I agree with Mr Cramer's presentation of my conversation with Mr Mebiame. I will therefore only add to the detail already provided by Mr Cramer.

Mr Mebiame told me that in early 2010, he was approached by South African friends in the ANC [the African National Congress, the Republic of South Africa’s governing political party], and asked to assist Alpha Condé, who he was informed was running for President in Guinea. Mr Mebiame met with Mr Condé in April 2010 and agreed to introduce him to "important people" in South Africa. I understood from my conversation with Mr Mebiame that he was very well connected in South Africa and close to President Zuma, the influential South African businessmen Tokyo Sexwale, and Walter Hennig, who he described as his "partner – who is like my brother".\(^68\) Mr Mebiame introduced Mr Condé to individuals in South Africa, who in turn allegedly assisted in rigging the election so that Mr Condé would win. This was said to have been implemented through the South African Secret Service and the company Waymark, which "touched up" the election results, in return for a payment of $14 million.\(^69\)

Mr Mebiame promised to deliver to me what he referred to as the "Waymark file" which he stated had been collated over a period of eight months and which was "...very precise - dates of the meetings, the places meetings were held with the Intelligence Service, and the icing on the cake, you will also have the names of the South Africans who took part. It's explosive...".\(^70\) Mr Mebiame did not provide this to me and we had little contact after that initial meeting.

In return, Mr Mebiame requested that I set up a meeting between him and BSGR. He stated that given that President Condé was alleging that BSGR was corrupt, if he could show that President Condé was not credible, this would in turn assist BSGR. He commented that, "...as soon as we launch this [the Waymark file] we're saving their skins too".\(^71\) Mr Mebiame also suspected that it had been BSGR which had informed the media about the "Palladino scandal" (referred to below) and I assumed that he thought the company would similarly be interested in distributing the Waymark file.\(^72\) I was in sporadic contact with BSGR at this time, as we were both on the receiving end of the same smear campaign. I

\(^{68}\) Exhibit C-0135, p.9.
\(^{69}\) Ibid., p.22.
\(^{70}\) Ibid., p.31.
\(^{71}\) Ibid., p.35.
\(^{72}\) Ibid., p.25.
passed on Mr Mebiame's request for a meeting to Mr Avidan, and I believe that he responded that he did not want anything to do with Mr Mebiame, as he was a crook.

133. Mr Cramer describes the Palladino scandal in detail in paragraphs 54 to 58 of his witness statement of 26 November 2014. In summary, the Palladino scandal referred to the means by which President Condé had agreed to repay Mr Mebiame for his assistance both before and after the election. Mr Mebiame informed me that Mr Condé had agreed to place a proportion of Guinea’s mining sector into a state vehicle in which Mr Mebiame and his partners would be given shares. To “disguise” this expropriation of assets, Mr Mebiame agreed to loan Mr Condé $25 million through the company Palladino 2 Capital, on highly unfavourable terms for Guinea (which was, and still is, very cash poor), including that in the likely event that Guinea defaulted on the loan, Palladino Capital 2 could take up to a 30% stake in an unspecified subsidiary of the state mining company. This stake could potentially be worth billions of dollars, depending on the assets absorbed into the state mining company. The Palladino scandal was exposed by The Sunday Times in June 2012 and I commented upon it in media articles. As Mr Mebiame said to me, “we made the loan, we signed the loan to Sougipami [(sic): SOGUIPAMI, the new state mining company], you know the story”. From what he told me and from what transpired later, the loan seems to have been a failed attempt to mask the last tranche of multiple cash payments to Alpha Condé by a group of individuals to whom he had pre-sold some of the most valuable mining projects in Guinea. When the necessary step of exposing me failed, his ability easily to deliver the assets disappeared and his partners grew impatient at first, then angry. The exposure came from their anger and frustration.

134. Mr Mebiame told me that the terms of the loan also contained strict clauses that the monies were to be paid into the state mining company, but that he became increasingly frustrated with Mr Condé when this did not occur. He told me that his “credibility [was] on the line” as it was him who had pushed his South African business partners to assist Mr Condé in circumstances in which “all those who were close to Zuma didn’t want to give a loan to Alpha”. Mr Mebiame appeared angry that after months of pressuring Mr Condé to transfer the $25 million loaned to the accounts of SOGUIPAMI, the monies were still unaccounted for.

73 Ibid., p.6.
74 The Sunday Times “Secret deal threatens big miners: BHP Billiton and Rio Tinto at risk after shadowy middleman strikes backdoor pact in Guinea” dated 3 June 2012 (Exhibit C-0148).
75 M&G, “Tokyo-linked company in Guinea row” dated 29 June 2012 (Exhibit C-0149).
76 Exhibit C-0135, p.6.
77 Ibid., p.7.
135. Mr Mebiame was perhaps most candid in relation to Mr Condé’s direct offers to him of mining assets in the hands of other companies. In respect of Rusal's asset at Dian-Dian, which contains the world's largest bauxite deposit, Mr Mebiame told me that:

"...he [President Condé] offered us Dian-Dian to Palladino. OK. He said to us in front of Lamine [the Mining Minister] who said to me each time he saw me: ‘Ah Samy, you should have taken Dian-Dian when we gave him to you. I said to him: ‘No, because we don’t work like that. We’re not on the lookout for money for the sake of money. And also, Guinea isn’t our only concern, we are business men, we’re global. So, they’re not problems for the sake of problems. Rusal is a big operator...”\(^{78}\)

136. Mr Mebiame expanded that he did not want to "take" Dian-Dian for two reasons. Firstly, his business partner Tokyo Sexwale had longstanding relations with Oleg Deripaska, the owner of Rusal. Secondly, Mr Mebiame commented that a much more "legal" approach would be to present Rusal with a report prepared when I was Minister of Mines – the Alex Stewart report – which showed that Rusal was in breach of its obligations, and force Rusal to either make a payment to the GoG or it would lose its licence on the basis of the report. President Condé apparently responded that "Either they pay it or I give it to you, to South Africa".\(^{79}\)

137. It was clear to me that President Condé was taking the same strategy with BSGR. I told Mr Mebiame that after I left Guinea, the people surrounding Mr Condé made him believe that the way in which I managed the BSGR file, and that of other companies, was "so opposite to the code and the law, that in one month he could legally prove that it was illegal and bring down everything".\(^{80}\) Mr Mebiame in turn informed me the first "case" which Mr Condé gave him was that of BSGR, but that Mr Condé had been "very naive" about being able to show BSGR did not comply with the Mining Code.\(^{81}\)

138. I in turn explained to Mr Mebiame about my role in BSGR's mining rights. I described my aim on entering office of putting assets into development in order to transform the Guinean economy. I told Mr Mebiame that I recognised that for this to be a success, I needed to ensure that the developments would be "irreversible".\(^{82}\) By this, I meant that I needed to ensure that future administrations could not turn around and say – for one political purpose or another – that the rights I had granted were not legal, thereby sabotaging any projects which were in development or about to be put into development. In respect of BSGR, this meant that I had to ensure that the retrocession of Rio Tinto's rights had been done legally, and that BSGR complied with the Mining Code. I was confident that both of these requirements were achieved. As I described to Mr Mebiame,

\(^{78}\) Ibid., p.40-41.
\(^{79}\) Ibid., p.42.
\(^{80}\) Ibid., p.38.
\(^{81}\) Ibid., p.6 and 9.
\(^{82}\) Ibid., p.39.
"If you take the two years of transition, when I was in the mining [ministry?], these were the two years when everything was done to the max, followed the mining code to the letter. Because I had a very simple objective; when I arrived I was a bit of an idealist. I said: ‘Here are four or five projects which are fairly advanced. And if we get them over the initial hurdles, it will transform the Guinean economy.’ And I said ‘It’s these five that I’m going to push’. And I said ‘Any that I can put into development in the two years I’ll do it’ but nothing happened ‘Any that I cannot put into development in the two years, I will make them irreversible in two years.’ The first step to make them irreversible is to make them legally watertight. So, for the Rio Tinto/BSGR file, it was very simple : first, I had to make sure of the fact that the way in which BSGR did the retrocession, was legal and conformed with the code: it did".  

Given this, I concluded to Mr Mebiame that "it’s not legally possible" to show that BSGR did not comply with the law or the Mining Code. 

In the course of our conversations, Mr Mebiame referred to a series of contracts in his possession which were stated to evidence that a woman named Mamadie Touré had entered into contracts with BSGR. I understand that the Technical Committee also relied on contracts which are said to evidence this. I would like to make clear that I do not know about these contracts and comment below only on what Mr Mebiame told me during our conversation. 

Mr Mebiame told me that he was approached by a Mr Cissé, who he explained was the husband of Mamadie Touré. In Mr Mebiame’s words:

"He said: ‘….I’ve got some thing that could interest you, I’ve got a file on BSGR; perhaps it could help you, you never know. We talked, and in the end he gave me a copy of the file, and I think that those who are behind BSGR found out and got worried – got worried that Cissé had given me a copy of the file. And my partner – who is like my brother, Walter – I gave a copy of the file to him too. I said to him: ‘Walter, here’s a copy of the file, perhaps it could be leverage, you never know, one day, but we won’t publish it. We’re not going to get caught up in their business. Keep it as insurance, you never know. He kept it and he met Asher two or three times’.

I understood that Mr Mebiame was referring to Asher Avidan, of BSGR. Mr Mebiame continued that he was then visited by a man named Frédéric Cilins, who wanted to work together with Mr Mebiame to "fight back" against President Condé. While Mr Mebiame did state that Mr Cilins was "one of their [BSGR’s] emissaries" he follows this with "apparently", and then when I asked Mr Mebiame again "was he really sent by DSGR [sic]", Mr Mebiame replied "No idea".

I explained to Mr Mebiame that when Rio Tinto first approached me on entering office, one of the allegations they made against BSGR was in relation to "Condé’s [transcription error:
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this should say "Conté's"

third, fourth, fifth wife etc., so the investigation I carried out to find out exactly what happened, we went through all of that". I explained that BSGR told me that this allegation related to a group which was in Guinea before them which they later bought out. I did not know the name of this group, and it was Mr Mebiame who told me it was Pentler.

144. For the avoidance of doubt, I did not deal with Pentler during my time as Minister of Mines, I had never heard of Mr Cilins prior to receiving the Allegations Letter and I did not know of any contracts between BSGR and Mamadie Touré. The events described by Mr Mebiame occurred two years before I arrived in Guinea.

**L. CONCLUSION**

145. I believe that BSGR's Base Convention was obtained through legitimate procedures and entirely in compliance with Guinean law. I did not receive money from BSGR to promote its interests and I am proud of my record as Minister of Mines which demonstrates that the decisions I made were in the interest of the Guinean people. The approach taken by President Condé against BSGR must be viewed in the context of the corrupt deals he made to reward his supporters with state assets.

I confirm that this statement is true to the best of my knowledge and belief.

[Signature]

Mahmoud Thiam

[Date] Feb 29, 2016